

IN THE COURT OF CRIMINAL APPEALS

Christopher James Holder,
Appellant

§

FILED
COURT OF CRIMINAL APPEALS
11/21/2019
DEANA WILLIAMSON, CLERK

§

v.

§

PD-1269-16

The State of Texas,
Appellee

§

State's First Agreed Motion to Extend the Time for Filing Brief

Pursuant to Rule of Appellate Procedure 10.5(b), the State requests an extension of time to file its brief and would show the following:

I.

Appellant filed a petition for discretionary review from the Fifth District Court of Appeals' decision in *Christopher James Holder v. The State of Texas*, No. 05-15-00818-CR, 2016 WL 4421362 (Tex. App.—Dallas Aug. 19, 2016, pet. granted). On June 7, 2017, this Court granted review, on one of Appellant's five grounds for discretionary review.¹ The parties filed their briefs, and oral argument was held on September 27, 2017.

¹ The Court granted review on Ground Three: "The Court of Appeals erred in holding the State's petition to obtain the Appellant's cell phone records set forth the 'specific and articulable facts' required by federal law under 18 U.S.C. section 2703(d)." This issue is still pending in this Court.

On June 26, 2018, Appellant filed a motion asking this Court to remand the case to the court of appeals for further consideration of his Article I, Section 9 claim in light of the United States Supreme Court's intervening decision in *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

II.

On October 23, 2019, this Court retrospectively granted discretionary review of Ground Four of Appellant's petition for discretionary review, which states:

The Court of Appeals erred in holding the State's acquisition of Petitioner's historical cell phone records under an order issued under the federal stored communications act with a showing of probable cause in the petition was reasonable under the guarantees of privacy in Article I section 9 of the Texas Constitution.

Holder v. State, No. PD-1269-16, 2019 WL 5445198 (Tex. Crim. App. Oct. 23, 2019). The Court ordered both parties to file their briefs within 30 days from the date of its order. *Id.* Appellant filed his brief on November 8, 2019.

III.

The State's brief is due to be filed on November 22, 2019. The State respectfully requests an extension of time of 30 days until **December 22, 2019**, to file its brief.

IV.

Good cause exists for the extension, namely:

- Since the Court's order for additional briefing, the parties have begun settlement discussions that would cause this case to become moot if they come to fruition. Due to his existing workload and holiday travel plans, opposing counsel will be unable to go immediately to TDCJ to discuss the State's offer with Appellant. Opposing counsel agrees to this extension.

WHEREFORE, premises considered, the State respectfully requests that the Court grant the State's motion to extend time to file its brief for 30 days, until **December 22, 2019**.

Respectfully submitted,

Greg Willis
Criminal District Attorney
Collin County, Texas

/s/ John R. Rolater, Jr.
John R. Rolater, Jr.
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Agreed:

/s/ Steve Mears
Steven R. Mears
Attorney for Appellant Christopher Holder

CERTIFICATE OF SERVICE

The State has e-served counsel for Appellant, Steven R. Mears, through the eFileTexas.gov filing system at SteveMears@msn.com on this the 19th day of November, 2019.

/s/ John R. Rolater, Jr.

John R. Rolater